



March 31, 1999

Mr. Ajay Shah
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
City Hall
Dallas, Texas 75201

OR99-0877

Dear Mr. Shah:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123042.

The Dallas Police Department (the “department”) received a request for all documents of a public integrity investigation. You indicate that some of the information that is responsive to the request is protected from disclosure under provisions of the Family Code and Government Code, in conjunction with section 552.101 of the Government Code. Section 552.101 of the Government Code protects from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” You also contend that certain photographs which are responsive to the request are confidential under section 552.119 of the Government Code.

You have marked certain records as confidential “juvenile crime” records and contend that they are excepted from disclosure under former section 51.14 of the Family Code. Section 58.007(c) of the Family Code applies to juvenile law enforcement records concerning conduct occurring on or after September 1, 1997, that are maintained by law enforcement agencies. Section 58.007(c) provides in part as follows:

Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public

Subsection (d), which concerns the transfer of records in certain circumstances, is inapplicable to the records at issue. *See also* Fam. Code § 51.02(2) (defining “child”). Based on your representation that the department is treating this information as a juvenile law enforcement record, we conclude that section 58.007(c) of the Family Code in conjunction with section 552.101 of the Government Code makes the marked report confidential and it may not be disclosed.

You also submitted to this office for review records marked as criminal history records of a particular individual. Title 28, Part 20 of the Code of Federal Regulations governs the release of criminal history record information (“CHRI”) which states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.*

Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (the “DPS”) maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov’t Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose, *id.* § 411.089(b)(1). Other entities specified in Chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release the information except as provided by Chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565 (1990). Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. We agree that the marked CHRI records must be withheld from disclosure.

You also submitted to this office for review records that contain photographs of individuals you identify as Dallas police officers. Photographs of peace officers are generally protected from disclosure under section 552.119 of the Government Code. Open Records Decision No. 502 (1988). Section 552.119(a) and (b) provides that a photograph of a police officer may be released in the following circumstances:

- (1) the officer is under indictment or charged with an offense by information,
- (2) the officer is a party in a fire or police civil service hearing or a case in arbitration,


(3) the photograph is introduced as evidence in a judicial proceeding,
or

(4) the officer gives written consent to the disclosure.

Based upon our understanding that the photographs are of peace officers and that none of the exceptions to disclosure under section 552.119 are applicable, we agree that section 552.119 protects the photographs from disclosure. The remaining information in the submitted records must be released.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/ch

Ref: ID# 123042

Enclosures: Submitted documents

cc: Mr. E. L. Cate
8802 Miami
Rowlett, Texas 75088
(w/o enclosures)

¹The documents contain an address and telephone number that may be fictional, but we note that section 552.117(2) provides that a peace officer's home address and home telephone number are confidential and may not be released.